IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15447 to 15451 of 2003

with

SPECIAL CIVIL APPLICATION No 15346 of 2003

HON'BLE MR.JUSTICE K.S.JHAVERI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NATIONAL THERMAL POWER CORPORATION LTD.

Versus

HARESH J MODI

Appearance:

NANAVATI & NANAVATI for Petitioner

MR MA BUKHARI for Respondent

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 12/07/2004

COMMON ORAL JUDGEMENT

1. The question involved in this group of petitions is common and therefore they are heard together and disposed of by this common judgement.

2. The petitioner has challenged the order dated 28.2.2003 passed by the Presiding Officer, Labour Court, Bharuch, rejecting the preliminary contention raised by the petitioner.

3. The respondent workmen raised industrial disputes against the petitioner Corporation which came to be referred to the Labour Court, Bharuch. The petitioner Corporation submitted application raising preliminary contentions about "Appropriate Government" and contended that the order of reference made by Assistant Labour Commissioner is without jurisdiction and authority in law. The Labour Court, vide order dated 28.2.2003, rejected the application raising the preliminary issue. It is against the said decision the aforesaid petitions have been filed.

4. Heard the learned counsel for the respective parties. From the record of the case it is clear that by Notification dated 3rd July 1998 the Central Government has delegated power under Section 39 of the Act to the State Government. In the present case the dispute was referred to the Labour Court in the year 1993. In view of this position, on the date when the reference was made to the Labour Court, the State Government had no power to do so. Therefore, the Labour Court has clearly committed an error in rejecting the preliminary objection raised by the petitioner.

5. It is also required to be noted that though the Labour Court has rejected the application on the ground of delay, in view of the fact that the petitioner Corporation had raised the question of jurisdiction, the Labour Court was not right in rejecting the application on the ground of delay.

5. In view of the above, the petitions are allowed. The order dated 28th February 2003 is quashed and set aside. It is clarified that it will be open to the respondents to go before the Conciliation Officer raising their disputes.

[K.S. JHAVERI, J.]